UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/1990/SR.34
3 May 1990

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

Forty-sixth session

SUMMARY RECORD OF THE 34TH MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 21 February 1990, at 3 p.m.

Chairman: Mrs. QUISUMBING (Philippines)

later: Mrs. REGAZZOLI (Argentina)

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GE.90-10933/1821B

The meeting was called to order at 3.15 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS (agenda item 12) (continued) (E/CN.4/1990/5, 21, 22 and Add.1, 25-28, 51, 52, 55, 57 and 60; E/CN.4/1990/NGO/1, 3, 9, 10, 15, 19, 23-27, 31, 32, 34, 35, 40, 53 and 55; A/44/526, A/44/573, A/44/620, A/44/622, A/44/635, A/44/669 and A/44/671)

1. Mr. DA SILVA (Observer for Sri Lanka), speaking in exercise of the right of reply, said that his delegation doubted whether the figures given by the representative of the International Commission of Jurists concerning the incidents that had occurred in Sri Lanka were accurate, but he none the less appreciated the fact that the latter had admitted that it was difficult to blame anyone in particular for them. He noted also that the emergency regulations referred to had been rescinded and that the Commission had even been informed of that measure. Furthermore, the lawyers mentioned by the representative of that non-governmental organization had not all been killed or threatened on account of their human rights activities and the figures quoted should be changed accordingly.

2. Regarding the situation in the universities which had been referred to by the World University Service, he explained that the regulations issued by the Government concerned the opening of universities and were intended primarily to prevent the university campuses from becoming hotbeds of subversion and thus thwart the aim of the rebel groups.

3. Lastly, the Government had started an inquiry into the abduction and subsequent murder of the journalist in question, as the Minister of Defence had announced the previous day in Parliament, and, for the present, there was nothing to indicate that either the Government or the security forces had had any responsibility in the matter.

4. Mr. LOEIS (Observer for Indonesia), speaking in exercise of the right of reply, said that Satar Suryants, Yohannes Surono, Solaeman alias Simon Petrus and Noos Rohayan had indeed been executed on 16 February 1990. All four had been soldiers in the Indonesian army and members of the Palace guard unit towards the end of President Soekarno's administration and had taken an active part in the attempted coup of 30 September 1965. His delegation fully understood the concern and regret expressed by the observer for Ireland on humanitarian grounds, but the legal aspects of the case had not been questioned because they were the internal affairs of a sovereign State.

5. The delay in carrying out the executions was due to the need to ensure that the legal procedure was respected and was in fact an indication that the accused were afforded every legal remedy, including that of appeal to the higher courts. Their appeals for clemency had, however, been rejected by the President of the Republic of Indonesia on 5 December 1989, because of the gravity of their crimes and because they had shown no remorse or regret, unlike other persons who had been sentenced to death for the same reasons and who had been shown clemency. Besides, it should not be forgotten that the

attempted coup of 1965 had had repercussions in several regions of Indonesia. Numerous trials had been held throughout the country and because there were so few judges and lawyers, delays in the legal proceedings had been inevitable. He stressed, however, that the four condemned men had been able to see their families, that they had been treated as humanely as possible during their imprisonment and that they had enjoyed all the guarantees provided under the law.

6. Lastly, he said that, as was the case internationally, there was no consensus on the matter of abolition of capital punishment in his country and that the Minister for Foreign Affairs of Indonesia had provided information on the question to some of his European counterparts at their meeting in Kuching, Malaysia.

7. With respect to East Timor, his delegation reserved the right to exercise the right of reply again at a later stage.

8. Mr. ROA KOURI (Cuba), speaking in exercise of the right of reply, said that his delegation categorically rejected the allegation that the Government of Cuba had taken retaliatory measures against persons who had spoken or had contacts with members of the mission that had visited Cuba in accordance with Commission resolution 1988/106. He recalled that the mission had been sent at the request of the Government of Cuba, the only Government, to his knowledge, that had proposed that the Commission should come and verify the human rights situation on the spot. The Government of Cuba would have to be very foolish to make such an offer and then take reprisals against those who had testified to the mission, and he did not think that stupidity was a charge that had been levelled against the Cuban revolution.

9. Some 1,500 persons had had contacts with the members of the mission or the secretariat of the Commission during their stay in Cuba, and of those, a mere 20 or so had been arrested, tried and subsequently sentenced, and then only for breaking existing Cuban laws. Their contacts with the mission had no bearing on their present situation.

10. His delegation was also surprised that the representative of Ireland had accused the Government of Cuba of not having replied to all the questions asked by the members of the Commission when it had in fact answered all of the Secretariat's letters.

11. Mr. KAHN (Movement against Racism and for Friendship among Peoples) said that people all over the world were being deprived of their freedom and sometimes even of their right to life and were being subjected to various forms of violence because of their political and religious convictions. Some young students had been the victims of such brutality in Dili, the capital of East Timor, for demonstrating in front of the hotel where Ambassador Monjo of the United States was staying shortly after his arrival on the morning of 17 January 1990. While informing him of the violations of human rights allegedly perpetrated by the Indonesian forces of occupation in East Timor since 1975, the young people had been photographed by Indonesian intelligence officers and the hotel surrounded by police vehicles and military trucks. After the Ambassador's departure, the students had been surrounded by police in riot gear, who had beaten them savagely and seriously wounded some of them. Mr. McMillan had witnessed those horrible events and could testify to

the fact that the students had been demonstrating peacefully and he wondered how unarmed civilians could have "physically offended" police who were protected by helmets and shields and were armed with batons and rifles, as the representative of Indonesia to the Commission had claimed.

12. People in East Timor were increasingly tired of the repression and were so desperate that they had found the courage to appeal to the United Nations to intervene and put an end to the flagrant violations of fundamental human rights. On behalf of the students whose cases he had just presented, he urged the members of the Commission to heed that appeal. No one should be forced to live in fear or under a régime that denied such basic human principles as the right to freedom of thought or expression. His organization fervently hoped that the Commission would recognize that, like all other peoples of the world, the people of East Timor had the right to exercise their right to life.

13. Mr. TEITELBAUM (American Association of Jurists) said that the progress made in Chile should lead to the establishment of a State subject to the rule of law, where fundamental human rights and freedoms were respected. The international community had condemned the military dictatorship there but it should nevertheless continue to support the efforts being made to achieve that goal because serious threats still remained.

14. The totalitarian and anachronistic Chilean Constitution of 1980 which had established a legal order that was incompatible with the full exercise of human rights was still in force. Articles 39, 40 and 41, in particular, provided for five kinds of states of emergency during which certain rights could be suspended or restricted, in particular, the right to freedom of opinion. Under that Constitution, a national Security Council had been formed, comprising the President of the Republic, the President of the Senate, the President of the Supreme Court and the four commanders-in-chief of the armed forces, who were all irremovable. It had extensive powers, including the election of judges to the Constitutional Court. Furthermore, the present dictator would continue to hold the post of commander-in-chief of the army for a further four years, in other words, throughout the term of office of President Aylwin, who would thus be unable to appoint a commander-in-chief whom he could trust, as was the case in all democratic régimes.

15. The military junta, which would exercise legislative power until 11 March 1990, had enacted various laws such as the new armed forces law, which reduced the powers of the new President of the Republic, and the law governing the National Congress, which prohibited any investigation into the activities of the military dictatorship before 11 March 1990. The dictator had also appointed nine persons to the Senate, who would make it difficult to obtain the majorities required to pass any legislation amending the 1980 Constitution or any basic constitutional provisions that were incompatible with human rights standards. Lastly, General Pinochet had taken steps to ensure that the majority of Supreme Court judges were on his side. However, although Chilean judges had often been condemned by the international community for their lack of independence and impartiality, the Supreme Court had recently dismissed Judge René García Villegas for incompetence because he had had the courage and the dignity to denounce the systematic use of torture by the security agencies. The present situation in Chile required caution and therefore, his Association felt that the Commission should renew the mandate of the Special Rapporteur for Chile for one year.

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16. Concerning the situation in El Salvador, he recalled that six Jesuits had been murdered at El Salvador University on 16 November 1989. According to two eye witnesses, Mr. and Mrs. Cerna, that crime was attributable to members of the armed forces. As a security measure, the witnesses had been offered asylum in France, Spain or the United States, but they had chosen to go to the United States because it was closer to their country. On their arrival in Miami, they had been lodged in a hotel under FBI guard and subjected to lengthy interrogations and threats to force them to retract their statements. Such interrogations were completely illegal and had no legal value. They constituted unjustified interference by the United States authorities, who had tried to discredit the witnesses in order to protect the Salvadorian soldiers involved in the case. While President Cristiani's decision to put several officers of the Salvadorian army on trial was a welcome one, the real murderers - in other words, extreme right-wing groups and soldiers who shared the same ideology and who occupied the highest ranks in the military hierarchy - would, unfortunately, go scot-free.

17. In the opinion of his Association, the case proved once again that the war-lords and enemies of dialogue in El Salvador enjoyed impunity and protection.

18. Mrs. Regazzoli (Argentina) took the Chair.

19. Mr. MENDOZA (Observer for El Salvador) said that the Government and people of El Salvador were convinced that, as Mr. Pastor Ridruejo had said in orally introducing his report (E/CN.4/1990/26), human rights would be violated as long as the war continued in El Salvador and therefore they wanted peace. The Farabundo Martí Front (FMLN) on the other hand, was still opting for war, as proved by the military offensive that it had launched on 11 November 1989.

20. The Farabundo Martí Front had chosen Marxism-Leninism and was endeavouring to seize power through armed struggle. There was a contrasting option in El Salvador, namely a democratic proposal by which access to power was to be gained through elections. Several democratic elections had been held in the past few years. In the latest one held in March 1989, whose openness had been praised worldwide, the opposition had won. The present Government in El Salvador, headed by President Alfredo Cristiani, was therefore fully democratic and its legitimacy had been recognized in the Esquipulas II Agreements.

21. He referred to the meeting of Central American presidents held in Costa Rica in December 1989 and expressed regret that Mr. Pastor Ridruejo had made no mention of the Declaration of San Isidro de Coronado that had emerged from the meeting. On 14 December 1989, the European Community had said that the agreement confirmed that the Central American Governments had the political will to arrive at appropriate solutions for renewing dialogue and negotiation and restoring peace to El Salvador.

22. In that Declaration, the Presidents of Costa Rica, Guatemala, Honduras and Nicaragua had expressed their firm support for the President of El Salvador, Mr. Alfredo Cristiani, and his Government and called upon the FMLN to cease all forms of violent action directly or indirectly affecting the civilian population. The Declaration of San Isidro de Coronado condemned the offensive launched by the FMLN on 11 November 1989 and also stipulated that

the terrorist front should be dismantled, under the supervision of the United Nations Observer Group in Central America (ONUCA). The signatories also demanded that ONUCA should step up its activities to prevent the supply of arms to the FMLN.

23. The FMLN, in particular, had been guilty of summarily executing numerous persons who supported the democratic process in El Salvador. In 1988, 15 mayors had been murdered and in his report for that year, the Special Representative of the Commission had deplored those murders. In his oral introduction, Mr. Pastor Ridruejo had also stated that the FMLN had murdered senior officials, including the Minister of the President's Office, Mr. José Antonio Rodriguez, on 9 June 1989, and the former President of the Supreme Court of Justice, Mr. Francisco José Guerrero, on 24 November 1989. On the other hand, he had made no mention of the murder of the philosopher, Francisco Peccorini Letona, the "Salvadorian Socrates", on 16 March 1989; Francisco Peccorini had in particular written a book entitled "The fundamental bases of human rights".

24. In his report, Mr. Pastor Ridruejo had mentioned President Alfredo Cristiani's appeal to the FMLN for dialogue. A dialogue had in fact been started in Mexico but at the second meeting held in Costa Rica in October 1989, the FMLN had refused to discuss the cessation of hostilities and had unilaterally broken off the dialogue to launch an offensive on 11 November 1989. Even after that offensive, the Salvadorian Government had attempted to resume the dialogue, with support from the Central American presidents, and the United Nations Secretary-General had been contacted to solicit his support. The Salvadorian Government stipulated only one condition for the resumption of dialogue: that the terrorists should suspend hostilities against the civilian population.

25. Lastly, he noted that Mr. Pastor Ridruejo, in his oral introduction, had recognized President Alfredo Cristiani's sincerity and he observed that the investigation into the murder of the Jesuit priests had been conducted openly and above board. The Special Representative had felt that the manner in which the guilty were punished would be a test for El Salvador. He was certain that the test would be passed and he assured members of the Commission that fundamental human rights and freedoms were being increasingly respected in his country.

26. Mr. WAKO (Special Rapporteur on Summary or Arbitrary Executions), introducing his report for 1990 (E/CN.4/1990/22), as well as the report on his visit to Colombia from 11 to 20 October 1989 (E/CN.4/1990/22/Add.1), recalled that in his previous report (E/CN.4/1989/25) he had noted that a number of positive initiatives had been taken to resolve various international conflicts peacefully which had led to the creation of an atmosphere conducive to the reduction of summary or arbitrary executions. He had expressed regret, however, that similar initiatives had not been taken to settle national conflicts. While the momentous upheavals that had occurred in several countries of the world in 1989 had unfortunately created a considerable number of victims, the positive effects on human rights in some cases were undeniable and the international community could hope one day to see the end of the abhorrent phenomenon of summary or arbitrary executions.

27. Time had not allowed him to take into consideration, in his report, the replies received from several Governments in January and February 1990. He was, therefore, taking the opportunity to state that the Governments of Brazil, China, Colombia, Myanmar, Peru, the Philippines, Sri Lanka, the Union of Soviet Socialist Republics and Venezuela had answered his communications. Some Governments had not had the time to conduct the investigations requested, others had assured him that investigations were already under way but, in any event, all had demonstrated a commendable spirit of co-operation.

28. He drew the Commission's attention to the corrections contained in document E/CN.4/1990/22/Corr.1 concerning paragraphs 19 and 286 of his report, where he had mistakenly omitted to mention the replies received from the Government of Mauritania. He tendered his apologies to that Government and thanked it for its co-operation.

29. Allegations of summary or arbitrary executions had been made against 36 countries in 1989 but of those, 11 were new countries. The number of countries to which the urgent appeals procedure had been applied had risen from 23 in 1988 to 25 in 1989 but there again, whereas 11 countries had dropped out of the picture they had been replaced by 13 new countries and the phenomenon of summary or arbitrary executions therefore remained acute.

30. Governments were increasingly co-operative in replying to communications sent to them, but there was still considerable room for improvement. A Government might respond to the urgent appeals procedure but not to the normal communication or vice versa. Similarly, delays in replying could be unduly long, as much as a year. They were sometimes due to the length of the investigation and the court procedures but he recalled, in that connection, the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions and effective means of investigating such executions, in particular paragraph 9, which stated that there should be "a thorough, prompt and impartial investigation of all suspected cases" of executions of that kind, "including cases where complaints by relatives or other reliable reports suggest unnatural death ...".

31. Of the 48 countries mentioned in the report, 32 had replied to the Special Rapporteur. Although, of the remaining 16 cases, a reasonable excuse for the failure to reply could have been the date on which the communications had been transmitted, there could be no justification in the cases of Chad, Haiti, Malawi, Somalia and South Africa, or in that of the Sudan, which had still not replied to the communications transmitted to it in previous years. He had named Haiti and Somalia for the second time in the hope that the Commission would address the problem of how to induce those countries to co-operate with it. On the other hand, he welcomed the fact that three countries he had mentioned in 1989 (Iran, Mauritania and Peru) had now replied. On that subject, he wished to inform the Commission that the Government of Peru had even invited him to visit that country in 1990; the modalities of the visit were still to be worked out and he hoped that it would lead to a better understanding of the problems and needs of the country in respect of promoting human rights.

32. It was vital that the phenomenon of summary or arbitrary executions should be studied against the background of the circumstances which had given rise to them in the first place. Consequently, he had always attached considerable importance to visits to countries and he was prepared to go

wherever he was invited. Accordingly, he had visited Colombia in 1989 at the invitation of the Government, whose co-operation was all the more appreciated because of the very difficult situation that the country was facing. Rapid changes were taking place in Colombia and it could well be that the situation described in the report was already out of date in certain respects. The Colombian authorities had already begun to address the difficulties and should be helped to continue its efforts in that direction. The United Nations had organized some projects under the advisory services scheme and some technical assistance projects with a view to improving the administration of justice, but there was still much to be done if the Colombian Government's efforts were to be successful.

33. In 1989, as in previous years, he had held consultations with the Ad Hoc Working Group of Experts on Southern Africa and had transmitted the information received from them to the Government of South Africa. He had also held useful talks with the representatives of some countries against which allegations had been made; he was most grateful to them and especially to the representative of China, who had kept him regularly informed of developments in the situation in his country.

34. In the past, he had drawn attention to particularly vulnerable population groups and had stated that no social class or age group had been spared and that the common factor among all the victims was their opposition or perceived hostility to political or economic policy or certain aspects of that policy. He had also drawn attention to the increase in the number of summary or arbitrary executions on grounds that were not purely political and to the excessive use of force by law enforcement agencies during peaceful demonstrations or during detention and loss of life through terrorism, armed conflicts and internal tension. The 1989 report had focused attention on human rights activists who had been victims of summary or arbitrary executions and who might be journalists, advocates, teachers or trade unionists. The figures were alarming, and the Committee should pay special attention to paragraphs 447-460 of the report.

35. Every individual, organization and Government had a responsibility to help eliminate the phenomenon of summary or arbitrary executions. The Commission could act as a catalyst in the realization of that common goal.

36. Lastly, he thanked the United Nations Centre for Human Rights for its unwavering support and expressed the hope that the United Nations would allocate it more staff and financial resources so as to render it even more effective in the important area of promoting human rights.

37. Mrs. Quisumbing (Philippines) resumed the Chair.

38. Mr. VITTORI (Pax Christi International) recalled the murder of Monsignor Romero in El Salvador 10 years before and stressed the fact that to date neither those who had masterminded the crime nor those who had carried it out had been indicted. Moreover, in November 1989, six Jesuit priests had been murdered along with two women, who had been innccent witnesses of their execution. Besides the clergy, hundreds of civilians, whose only crime had been to defend human rights in a non-violent manner had been executed in El Salvador and by arresting only a handful of the murderers in the November 1989 slaughter, the Salvadorian Government and the big country that

backed it had failed to convince anyone of their determination, to stamp out the violence. The Government of El Salvador and its allies should pledge to neutralize those elements in the army which were murdering with such impunity.

39. Four years after the fall of the dictator Duvalier, human rights were still being violated in Haiti and terror and squalor were the order of the day. He recommended that a special rapporteur should be appointed by the Commission to assess the human rights situation there because it was still most disturbing, even though the state of siege had been lifted and some prisoners released. To ensure that the forthcoming general elections were truly democratic, it was indispensable that all the political parties should be able to stand and, to that end, United Nations supervision was essential.

40. In the Sudan, the glimmer of hope at the beginning of 1989 that the situation would improve had been dashed by the coup d'état of 30 June. The strong comeback of the National Islamic Front had been accompanied by very disturbing discrimination against non-Islamic people and executions by fundamentalist militias which, acting under the cloak of the Shariah, had led thousands of refugees to flee the country. The situation of some 200,000 refugees, who had fallen into a trap in Juba when it had been besieged, was more dramatic than ever, and their survival could not be guaranteed for more than three or four weeks. The United Nations, the OAU, the EEC and the entire international community should intervene immediately to enable civilians to leave Juba in complete safety and to reach the international food aid distribution centres. It was important that pressure should be brought to bear on the Government of Khartoum and the People's Liberation Army of the Sudan to begin negotiations for establishing a peace acceptable to all parties.

41. In the Arab territories occupied by Israel, civilians were subjected to inhuman and unacceptable practices such as retaliatory measures in the form of collective punishment. The punishment consisted, for example, of destroying homes, confiscating tools and essential instruments, and using various pretexts for closing educational establishments from kindergartens to universities. His organization appealed primarily to the conscience of the Jewish people, who had themselves suffered such harsh persecution, and called upon them to join the international community in demanding that Israel cease the serious violations of the Universal Declaration of Human Rights and of the Fourth Geneva Convention of 1949 to which it was a party.

42. With respect to the human rights situation in Sri Lanka, the information available indicated that acts of violence had increased in number and gravity in the past few months. International public opinion knew very little about the new developments because of the obstacles to freedom of expression, but it had been confirmed that paramilitary forces in the south, units of the Indian Army as well as the Tamil Tigers of Eelam in the north-east were murdering and abducting large numbers of people. Torture was common, and bodies were burned before the families could identify them. It was alleged that abducted children had been taken to India. His organization urged the Commission to intercede with the Governments of Sri Lanka and India so as to put an end to those practices.

43. Like many delegations, his organization asked the Commission to adopt a firm and clear position of support for the Chinese people in their struggle for human rights and democracy. The seriousness of the situation in Tibet

should no longer be shrouded in silence because the Chinese authorities had embarked on a policy of cultural genocide and demographic aggression which would lead to the extermination of the Tibetan people if it was continued.

44. Lastly, he recalled the martyrdom of the people of Timor, who were still being subjected to foreign occupation and were fighting for their independence.

45. Mr. SANIDAD (Regional Council on Human Rights in Asia) said that his organization was deeply concerned over the worsening of the human rights situation in South-East Asia during the previous year. In Indonesia, Malaysia and Thailand, the indigenous populations had been devastated and displaced under the guise of development. In Indonesia, students had been arrested and imprisoned and their rights to freedom of expression, freedom of education and to a fair trial were being violated. Furthermore, the Regional Council was deeply disturbed that Singapore proposed to enact a new law on religions giving the Government a right of extra-legal surveillance over religious organizations.

46. He drew particular attention to the deterioration of the human rights situation in the Philippines. Three years after that country had ratified the International Covenant on Civil and Political Rights, the most fundamental rights of the Philippine people, namely the rights to life, to freedom and to physical and mental integrity, continued to be trampled under foot in contravention of the law and democratic principles. In 1989, there had been reports of alarmingly frequent extrajudicial executions and cases of involuntary disappearances, some only recently. However, what was more disquieting was the increase in the number of families displaced and dispossessed of their property throughout the country, under the anti-insurgency programme which the Philippine Government had instituted. According to independent observers, at least 18,000 families had been temporarily divided as a result of military interventions, operations by the insurgents or armed conflicts between soldiers and rebels.

47. Recalling that, in a statement to the Commission, the Government of the Philippines had asserted that those who had the means and the capacity to do so should retaliate when their rights were violated since otherwise they would lose the moral strength to complain, he said that coercion, fear, poverty and ignorance often compelled victims to remain silent. The failure of a Government to act until victims lodged complaints could be likened to an official policy of tolerance of human rights violations.

48. Furthermore, speaking on behalf of his own organization and of the American Association of Jurists, the International Commission of Health Professionals for Health and Human Rights, the World University Service, Human Rights Advocates, the International Human Rights Law Group, the International League for the Rights and Liberation of Peoples and Pax Romana, he said that although the Commission had been concerned about flagrant and systematic violations of human rights in Sri Lanka since 1984, the situation in the country had deteriorated, especially at the end of 1989 and needed attention more urgently than ever. Although he welcomed the reports of the Working Group on Enforced or Involuntary Disappearances and of the Special Rapporteur on Torture and Extrajudicial Executions, which had addressed the question, he was concerned about the legislative framework which effectively allowed violations of human rights in Sri Lanka to continue. Consequently, under repressive laws, which were suspended whenever international conferences of

financial backers or elections were held and thereafter re-imposed with even greater ferocity, human rights lawyers and activists were subjected to extrajudicial executions and families which lodged petitions for habeas corpus were threatened. The Sri Lankan security forces and the paramilitary groups in the south had carried out an alarming number of extrajudicial executions. Furthermore, massacres were committed in the universities or villages with the apparent connivance of the Indian Peace-Keeping Force. He appealed to the Government of Sri Lanka to investigate the cases of extrajudicial executions, disappearances and torture in order to bring the guilty to justice and compensate the victims.

49. Mr. DAVIES (Survival International) said that the attention of the international community had recently been drawn to the discriminatory treatment of Somali residents in Kenya, a number of whom had been expelled from the country or had their passports withdrawn. Such a policy reflected the traditional mistrust of the Government of Kenya towards its Somali minority and was part of a wider scheme to persecute small tribes of nomadic herdsmen, who lived in the eastern and north-eastern provinces of Kenya and of whom the Somalis were only a fraction.

50. Those populations were being subjected to gross violations of human rights by an army carrying out operations ostensibly designed to rid the area of bandits. Amid slaughter, the burning of villages, the seizure of herds and the destruction of houses by fire, thousands of Kenyan Somalis had been rounded up and sent home in November 1980. In February 1984, 5,000 Somali men had been starved, tortured or killed in an operation which, the authorities claimed, was intended to pacify the clans. In November 1987, mass expulsions and a massacre of Somalis had been reported and at the end of 1988, over 600 Somalis had been imprisoned as part of an alleged campaign against poachers.

51. Those exactions had been carried out in a completely different legal framework from the one which governed the rest of Kenya. Although theoretically, under the Kenyan Constitution, the populations in the north-eastern and eastern provinces enjoyed full citizenship, in practice, special legislation virtually deprived them of that right. Groups of herdsmen had also been arrested, displaced or imprisoned and their goods and herds seized or arbitrarily destroyed. Unlawful possession of firearms was automatically punished with the death penalty and the President could, by decree, take repressive measures in the region.

52. With respect to Somalia, he said that retaliatory measures had been taken by the Government against the Isaaqs, the largest clan in the north-west of the country. The Somali nation being divided into clans and groups of clans, any anti-governmental activity was in practice the result of those divisions and individuals tended to be the targets of repressive measures simply because they belonged to a particular clan.

53. Furthermore, the foundation in 1981 of the Somali National Movement backed by the rural populations had been followed by brutal anti-insurgency operations in which villages had been destroyed and wells closed. A scorched-earth policy was apparently also practised in the rural areas. Numerous reliable reports spoke of land and air attacks by government forces against unarmed civilians, massacres and extrajudicial executions of Isaaq civilians and the detention of several hundred Isaaqs suspected of being sympathizers of the Somali National Movement.

54. The Commission should therefore urge the Governments of Kenya and Somalia to take action to end those abuses. The Commission should, in particular, ask the Government of Kenya to restore the full citizenship rights of the inhabitants of the north-eastern and eastern provinces of Kenya, to take the necessary measures to increase land ownership by herdsmen's groups, to bring those responsible for the 1984 massacre to justice and to compensate the families of the victims. As for the Government of Somalia, the Commission should ask it to control the army and security forces to prevent any repetition of past abuses.

55. Lastly, he appealed to the international community to bring pressure to bear on the Government of Somalia by withholding aid, particularly military aid, for as long as those abuses continued.

56. Mr. PERMUY (Christian Democratic International) said that his organization was very pleased that the peoples of eastern Europe had been freed after more than 40 years of repression. It supported the efforts of the Baltic peoples to gain self-determination and independence and hailed Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary and Poland, which were demanding recognition of their individual and community rights. It deplored the brutal massacre of the Romanian people before the fall of the dictatorship, condemned the blind massacre of students by the Chinese authorities, welcomed the release of Nelson Mandela and denounced the murder of three activists in its Haitian branch, the Organization of United National Progressive Democrats.

57. Turning to situations that demonstrated gross and consistent violations of human rights, he referred particularly to the case of Cuba and recalled that a United Nations mission had submitted a report which stated that multiple violations were taking place there: disappearances, illegal detentions, torture and violation of the right to enter and to leave the country, denial of the right to a fair trial, the right to work, and the right to freedom of religion, expression and association.

58. The Commission had discussed the question at its forty-fifth session and adopted decision 1989/113, under which the Secretary-General was to maintain contacts with the Cuban Government. Unfortunately, the Cuban authorities were not only continuing to commit gross and consistent human rights violations but, worse still, they were intensifying repression in the country. The Centre for Human Rights and numerous Cuban and international organizations had reported that violence had escalated, but it was not sure that the documents drafted on the subject were taken into account.

59. The Cuban Government had not fulfilled its commitment to co-operate with the Secretary-General. For example, witnesses had been arrested for testifying to the United Nations mission, and he named persons who had now been in prison for more than 20 years. Torture and inhuman treatment were the lot of detainees, relatives of persons who had fled the country were taken hostage in retaliation, and senior officers of the revolutionary armed forces had been tried and arbitrarily executed.

60. Referring to statements by Mr. Mock, the Minister for Foreign Affairs of Austria, and by Mr. Sainsbury, a British parliamentarian, he appealed to members to reflect on the case of Cuba, so that violations committed there would not go unpunished. The appointment of a person to ensure liaison

between the United Nations Secretariat and the Group of Experts would make it easier to ascertain the actual situation in Cuba and to apply decision 1989/113.

61. Lastly, he asked that, in the name of international solidarity, the Secretary-General's report should be submitted to the Commission at its current session and that a rapporteur should be appointed to complete the work begun by the mission to Cuba.

62. Mr. DAO (International Labour Organisation) said that the ILO Committee on Freedom of Association was continuing to examine complaints concerning the murder and disappearance of large numbers of Colombian trade unionists. In answer to that Committee's questions, the Government of Colombia had said that the measures taken to eliminate the paramilitary groups and to strengthen the judicial authority had considerably reduced the level of violence in the country, including violence against trade unionists.

63. In the case of El Salvador, the ILO Committee on Freedom of Association had received numerous complaints from national or international trade union organizations reporting the murders of numerous trade unionists, disappearances, arbitrary arrests, searches of and attacks on trade union premises, violations of the right to strike and discriminatory action against the trade unions. Given the extreme seriousness of those allegations, the ILO had sent a fact-finding mission to the country in January 1986 and in its report of November 1989, the Committee had deeply regretted the climate of violence that prevailed in the country and urged the Salvadorian Government to begin judicial investigations into the murders and disappearances, to take strong measures to ensure the normal legal exercise of trade union rights, to put an end to the violence, pressure and threats and to keep it informed on all those points.

64. In June 1989, worker delegates had lodged a complaint with ILO about the situation concerning employment and vocational training for members of ethnic, cultural or religious minorities in Romania. The complaint had been made under ILO's Discrimination (Employment and Occupation) Convention No. 111, which Romania had ratified in 1973. ILO's Governing Body had instructed an independent fact-finding committee to examine the facts, draft a report and, as appropriate, put forward recommendations to ensure that the rule of equal opportunity and treatment was respected. On account of the developments in Romania, the committee, which had met for the first time in Geneva in January 1990, had decided to request further information from the Romanian Government, the United Nations and UNHCR, employers and workers' organizations and a number of non-governmental organizations about the allegations made in the complaint and also about subsequent events. The committee would be meeting again in May 1990.

65. He added that Mr. J. Voyame, Special Rapporteur of the Commission on the situation of human rights in Romania, would be kept fully abreast of matters concerning that country.

66. Mr. LOPEZ (Service, Justice and Peace in Latin America) said that while everyone was increasingly aware of the importance of human rights, large-scale violations of them still continued. Not only such violations but also the political motives of their perpetrators should be denounced.

67. The most serious violations occurred in those countries where the army held power, either officially or de facto. That was the case in many third world countries, especially in Latin America. The Governments there were silencing their opponents, and eliminating them, if necessary, in the name of the doctrine of national security.

68. In Latin America, human rights violations were directly attributable to the military, which substituted for the police, conducted psychological warfare and even banded together with death squads or paramilitary groups. The latter, who were specialists in extrajudicial executions, torture and abduction, were trained, advised and even financed by the army in order to serve foreign strategic interests. Individuals, families and peoples were all targets of that militarism, which had institutionalized arbitrary action.

69. It was well known that the Guatemalan, Salvadorian and Honduran armed forces violated human rights with impunity. That impunity was all the more serious as it tarnished the image of law. In El Salvador, for example, the army had acknowledged responsibility for the massacre of peasants in San Jacinto, whereas the guerrillas had initially been blamed for it.

70. The United States troops who had invaded Panama were responsible for the disappearance of over 204 people, unlawful entry into more than 4,000 homes, and destruction of the dwellings and property of some 2,750 families. In addition, 1,600 bodies had been buried in common graves without having been identified and the invading troops had not permitted any investigation to be held as to the real number of casualties, which was estimated at between 3,000 and 5,000 people. The United States had not changed its policy since the time of Theodore Roosevelt; it had simply replaced the gunboats by airborne troops.

71. In Peru, an official terrorist group was operating under the name of the Rodrigo Franco Democratic Commando Force. According to the investigation carried out by the Parliamentary Commission of Inquiry into Paramilitary Groups, the force was headed by the current Minister of the Interior. The Working Group on Enforced or Involuntary Disappearances had stated in its report that Peru was one of the three countries in Latin America with the highest number of disappearances. In 1989, 400 cases had been reported, including that of Mr. Javier Alarcón. In addition, a bomb had been placed at the headquarters of the Andean Commission of Jurists on 18 February 1990.

72. Lastly, the Commission on Civil Rights of Puerto Rico reported that, through United States intervention, the names of over 100,000 Puerto Ricans had been put on file for political motives and that there were 15 Puerto Ricans still serving prison sentences in the United States for having demanded the right to independence and self-determination.

73. Mr. GUBARTALLA (Observer for the Sudan), replying to the observer for Ireland who had spoken on behalf of the 12 countries of the European Community, said that the Sudan was also deeply committed to respect for human rights and that, when the national revolution had broken out, the Government had outlawed some political parties and suspended certain freedoms to prevent the country from plunging into chaos. At present, trade unions were allowed to exercise their activities normally and pending the establishment of a new labour tribunal, they would be run by steering committees composed mainly of former trade union leaders. Similarly, newspapers could be published after the adoption of the new press law which was being drafted in conjunction with the journalists' trade unions.

74. In addition, the Government of the Sudan was doing everything it could to stop the fighting in the south of the country. To that end, it had embarked on a peace process by negotiating with the rebel movement on two occasions and had proposed a vast peace project to the movement, based on a federal system designed to preserve national unity and the territorial integrity of the country. Unfortunately, the rebels were laying down conditions that were unacceptable to the Government and in particular were refusing to agree to any power-sharing or the preservation of cultural pluralism in a united Sudan.

75. He said that although tribal conflicts had left many dead in one village in the Sudan, there had not been and would never be any massacres of civilians in the Sudan.

76. Mr. SHARMA (India), speaking in exercise of the right of reply, said that the allegations concerning the Indian Peace-Keeping Force in Sri Lanka were entirely baseless and that the Force was being evacuated. The Force had performed its difficult assignment in an exemplary manner and many of its members had been wounded or killed because they had been trying to minimize civilian casualties. All the allegations against them had been investigated and in the rare cases where they had been found to be justified, disciplinary action had been taken. He urged those who blindly accepted such allegations to verify the facts beforehand.

VIOLATIONS OF HUMAN RIGHTS IN SOUTHERN AFRICA: REPORT OF THE AD HOC WORKING GROUP OF EXPERTS (agenda item 5) (continued)

Introduction of the supplementary report of the Ad Hoc Working Group of Experts (E/CN.4/1990/7/Add.1)

77. Mr. BALANDA (Chairman of the Ad Hoc Working Group of Experts on Southern Africa) recalled that in operative paragraph 22 of resolution 1989/3, the Commission had requested the Ad Hoc Working Group of Experts to make an on-the-spot investigation of living conditions in Namibia and the treatment of its people by the racist South African régime. The mission had been completed and the Group had submitted a report contained in document E/CN.4/1990/7/Add.1.

78. For the first time, the Government of South Africa had allowed the Ad Hoc Group of Experts to visit South Africa and Namibia, and he hoped that the Government would maintain its constructive attitude in the future. During its stay in Windhoek, the Group had held talks with Mr. Martti Ahtisaari, the Special Representative of the United Nations Secretary-General, Mr. Louis Pienaar, the Administrator-General for Namibia, representatives of political parties and members of the Government which had just been set up after the election of the Constituent Assembly. It had also heard representatives of human rights organizations and various witnesses.

79. From those contacts it was obvious that there was a general atmosphere of détente after the elections, which, the representatives of the political groups contacted unanimously agreed, had been completely democratic. It should, however, be added that concern had been expressed in virtually all circles that persons who had not returned to the country for the elections would be considered missing by their relatives. It had also been reported that, under the amnesty law promulgated in 1989 by the Administrator-General for Namibia, some former members of the anti-riot commando unit "Koevoet" had

been granted amnesty, although they had committed atrocities. The Ad Hoc Working Group of Experts felt that the international community should not accept such a situation, even though the "Koevoet" appeared to have been disbanded. On the other hand, the Group was indignant that the Government of South Africa had refused to release Leonard Sheehama, who, in its opinion, should be regarded as a political prisoner.

80. The Ad Hoc Working Group of Experts had also observed that, despite Security Council resolution 435 (1978), only a very few of the apartheid laws had been repealed. They had been, for the most part, regulations concerning the exercise of civil and political rights which, when repealed, had enabled political parties to exist de facto and their members to hold meetings that had previously been prohibited. Furthermore, political leaders had said that they were very concerned about Walvis Bay, which was an important port for the economic development of Namibia. Lastly, all were agreed that the international community should provide independent Namibia with all the assistance it needed in different areas.

81. Document E/CN.4/1990/7/Add.1 contained an analysis of information received on civil and political rights, on the one hand, and economic, social and cultural rights, on the other. It also contained some preliminary information about the provisions of the new constitution for Namibia and some observations and recommendations. With regard to civil and political rights, he said, first of all, that the Group had been informed that 10 persons sentenced to death and awaiting execution would probably not be executed because article 6 of the new constitution had repealed the death penalty. In 1989 or 1990, 30 cases of detention had been reported to the Group, but most of the persons concerned had been released, some as part of an exchange of prisoners between the South African security forces and Angola. Legislation authorizing detention without trial had also been repealed as part of the implementation of resolution 435 (1978). Whereas there had been no detentions without trial since July 1989, cases of torture and ill-treatment had again been reported.

82. With respect to the administration of justice, for the present, an independent judiciary was impossible in a country where legislation was based on apartheid and where all the judges were white. However, there were some cases where the Bench seemed to dissociate itself from the executive authority. Another noteworthy fact was that the investigation into the murder of Anton Lubowski, a black militant of the South-West Africa People's Organization (SWAPO), had led to the arrest of suspects who, according to the Administrator-General, would shortly be brought to justice. The Administrator-General had also reported that five students who had been sentenced for public violence in Walvis Bay in November 1989 had been amnestied. Referring again to the amnesty granted to torturers, he cited the case of Dirk Calitz, who had been sentenced to 10 years' imprisonment for having beaten an old man to death and who had just been released. The exact number of persons who had disappeared was not known and the Group recommended that the Commission should help to clarify that situation in close co-operation with the Government of Namibia.

83. In the area of economic, social and cultural rights, the Group had, unfortunately, not observed any significant progress. In a society where only the menial tasks were reserved for the black population and where wages were very low, rapid change could hardly be expected. Given the precarious state

of the economy, the black population could not be decently housed or provided with adequate health care. In respect of education, black children could fortunately attend institutions previously reserved for whites only, but the Group had noted that various factors prevented them from effectively enjoying that right.

84. The new Namibian Constitution took into account all the rights contained in the most important international instruments concerning human rights. Mechanisms had also been provided to guarantee protection of those rights even during periods of crisis. It was still necessary, however, to ensure that those rights were effectively applied and respected in practice.

85. The Ad Hoc Working Group recommended that the international community should provide independent Namibia with all the assistance it needed and that the Commission should make its existing advisory services available to the country. The Group recalled that it had already recommended that Namibia should receive fair compensation for the damage caused by South Africa's illegal occupation of the country. Lastly, he said it was very encouraging to see that when the entire international community was mobilized as it had been for Namibia, positive results were not long in coming; he hoped that the community would also contribute to improving the situation in South Africa which the Group also had to cover as part of its mandate.

The meeting rose at 6 p.m.